

Ordinance No: 16-45
Zoning Text Amendment No: 09-13
Concerning: Transit Mixed-Use (TMX) Zone -
Prior Approvals
Draft No. & Date: 2 - 1/19/10
Introduced: December 1, 2009
Public Hearing: January 19, 2010
Adopted: March 16, 2010
Effective: April 5, 2010

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: The Planning, Housing, and Economic Development Committee

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow any approved development plan, supplementary plan, or site plan to construct subject to the applicable approval;
- allow amendments to preliminary plans and site plans approved under any prior zone under certain circumstances; and
- generally amend the provisions related to regulatory approval before the application of a TMX zone.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-14 "TRANSIT MIXED-USE (TMX) ZONE"
Section 59-C-14.2 "Transit Mixed-Use (TMX) Zone"

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 09-13, sponsored by the Planning, Housing, and Economic Development Committee, was introduced on December 1, 2009.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be approved with a revision to limit grandfathering to the lesser of 10 percent of the gross floor area or 7,500 square feet. Planning Staff also recommended approval with the proposed revision.

The County Council held a public hearing on January 19, 2010 to receive testimony concerning the proposed text amendment. Testimony favored allowing grandfathered structures to be reconstructed. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on January 21, 2010 to review the amendment. The Committee recommended approval of ZTA 09-13 as amended. ZTA 09-13, in the opinion of the Committee, would more broadly allow the use of the TMX zone by grandfathering prior approvals.

The District Council reviewed Zoning Text Amendment No. 09-13 at a worksession held on March 16, 2010 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 09-13 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-C-14 is amended as follows:

Sec. 59-C-14.2. Transit Mixed-Use (TMX) Zone

* * *

59-C-14.26. Existing buildings [and], uses and approvals.

(a) Any lawful structure, building, or established use that existed before the applicable Sectional Map Amendment adoption date is a conforming structure or use, and may be continued, structurally altered, reconstructed, repaired, renovated, or enlarged up to 10 percent of the gross building floor area or 7,500 square feet, whichever is less. However, any enlargement of [the] a building that is more than 10 percent of the gross floor area or 7,500 square feet of construction [[of a new building]] must comply with the standards of the TMX Zone.

(b) [In the TS-R and TS-M zones, development under a] A development plan or a supplementary plan approved before adoption of the applicable Sectional Map Amendment remains valid, and construction may proceed subject to applicable approvals under the standards of the previous zone. Any increase in density above the approved development plan or supplementary plan limit must be subject to the standards of the TMX zone.

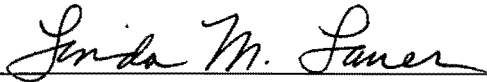
(c) Development under a preliminary plan or site plan approved before adoption of the applicable Sectional Map Amendment remains valid, and construction may proceed subject to applicable approvals under the standards of the previous zone. A preliminary plan or site plan approved before adoption of the applicable Sectional Map Amendment may, at the option of the applicant, be amended after the adoption of the applicable Sectional Map Amendment under the standards of the previous zone or under the TMX zone standards. However, any enlargement of a proposed building that is more than 10 percent of the approved gross floor area or 7,500 square feet of construction [[of a new building]], whichever is less, must comply with the standards of the TMX Zone.

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29 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
30 Council adoption.

31 This is a correct copy of Council action.

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34 Linda M. Lauer, Clerk of the Council